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The meeting opened at 6:40 p.m.

Present were: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Oltman, Bordonaro & Rechisky (Associate

Members).

Petition No.: Z-14-135

Premises affected: 115 Corbett Street

Petitioner: Raleigh

Relief Requested: special permit under Art. VIII, §3.3.5 &/or for a variance from Art. VIII, §4.1.2 to raze an existing

single family dwelling & construct a new one on a lot that lacks the minimum required frontage

Board: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Oltman, Bordonaro & Rechisky (Associate

Members).

A request to continue the public hearing without opening to 11/6/14 was received 9/15/14 from Attorney Mark Johnson on behalf of the applicant. McDonough made a motion to continue the hearing to 11/6/14. Bargnesi seconded the motion & the Board voted (6-0) to continue without opening to 11/6/14.

Petition No.: Z-14-122

Premises affected: 31 Argilla Road

Petitioner: Lau

Relief Requested: Variance from §4.1.2 to construct a new house & raze the existing home on a lot that lacks frontage

Board: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Oltman & Rechisky (Associate Members).

Alternates: None.

Associate Member Bordonaro recused herself from the hearing. Owner/applicant, Bill Lau, represented himself in his request for a special permit under 3.3.5 &/or for a variance from 4.1.2 to construct a new single family home & demolish the existing home on a lot that lacks the minimum frontage requirement of 150' in the SRB district. The proposed dwelling will be 2.5 stories high with an unfinished basement & attic. It will measure 37.6' wide by 50' deep and contain 4 bedrooms and 2.5 bathrooms. Mr. Lau noted that the plans submitted with the application did not depict the rear shed dormer, but they will be revised if relief is granted for the project. The new home will be constructed immediately behind the existing home. Lau noted that the existing house does not conform to the side setbacks; however the new one will conform to all setbacks. Setting the new home further back will improve vehicular egress from the lot, eliminating the need to back out onto the street with the addition of a semi-circular driveway. Brown submitted a panoramic photo of the streetscape. The Board discussed the condition of the existing house with Mr. Lau, as well as the request to keep the existing home during construction of the new one. Lau stated that the existing home would be used for storage during construction. Also discussed is the location of the new home further back on the lot. Lau stated that he is flexible as to when the existing home will be razed. He has spoken with the immediate abutters to the right, who expressed their support to him. The Board got clarification on the changes to the plans: add rear roof dormer & house to be 50' deep rather than the 43' shown on the plan. Ken Spatola, co-owner of 29 Argilla Rd. voiced concern with the location of the proposed home, stating preference for it to be closer to the street. He also expressed concern over how long the two homes would be on the lot. Brown explained that, if approved, the Board can place a condition withholding the Certificate of Occupancy until the existing home is razed. The Board also discussed the existing streetscape & how it would be affected by the new house. Brown stated that he had driven by the lot & noted that the existing home sits up higher than the abutting homes. There being no other questions or comments from the Board or public, McDonough made a motion to waive a site view & close the hearing. Oltman seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate.

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Brown noted that the house was built in 1938, at which time it exceeded the zoning bylaws dimensional requirements. It was only in the 1950's when the bylaw changed that the frontage was rendered non-conforming. The Board discussed the proposed location of the proposed house and the elevation of house, as well as the new driveway solving vehicular safety issues and the length of time that the two structures would be on the lot simultaneously. McDonough made a motion to make a finding that the existing structure & lot are pre-existing, non-conforming, that the removal of the existing house & construction of a new home will extend the non-conformity while eliminating the side setback encroachment and to grant a special permit under 3.3.5 with the conditions that the new house be constructed in conformance with the certified plot plan, floor plans & elevations submitted with the addition of a shed dormer to the rear of the new house being setback further on the lot. The Board grants the special permit with the additional condition that the existing home has to be demolished within six (6) months of the issuance of the Building Permit. Rechisky seconded the motion & the Board voted (5-0) to grant the special permit with conditions. McDonough then made a motion to deny the variance as moot. Bargnesi seconded the motion & the Board voted (5-0) to deny the variance as moot. Oltman will write the decision.

Petition No.: Z-14-136

Premises affected: 146 Dascomb Road

Petitioner: Lupoli

Relief requested: variance 4.1.2 to subdivide a lot into two lots, bisecting an existing building & creating a non-

conforming side & rear setback for the existing building

Board: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Oltman (for Magenheim), Bordonaro (for

Boness). Alternate: Rechisky (Associate Members).

Paul Materazzo, Director of Planning, made a brief presentation on the ID2 Zoning District. Sal Lupoli gave an overview of the site development plan, explaining that the subdivision of the property is necessary for financing purposes. Therefore, the requested variance for a zero setback where the new lot line would bisect the existing building is necessary in order to subdivide and develop. The resulting 200,000 sq ft subdivided building space & remaining lot area would be redeveloped in a condominium type arrangement. Rick Friberg, petitioner's engineer with TEC, reviewed the site challenges: such adaptive re-use will be facilitated with the proposed subdivision; without the variance 40% of the existing building would have to be demolished to meet setbacks having an enormous negative financial impact on the site. Attorney Doug Hausler pointed out that the shape & topography of the lot with the large building in the middle of the site decreases redevelopment options. The requested variance for 0' rear setback is to protect the rear abutter (Restaurant Depot), who is also the current owner. He stated that Restaurant Depot has no concerns with the proposed setbacks. Hausler argued that the request is not a substantial derogation from the intent of the bylaw, is consistent with the town's Master Plan vision and without relief, obtaining financing for the redevelopment of this property is almost impossible. Friberg clarified the requested relief: variance from 4.1.2 for side/rear setback to subdivide the lot bisecting the existing building. In the future, the conceptual design plan will go through the study & review process. It is possible that they'll have to return to the ZBA for permits for potential uses. They will appear before the Planning Board & MASS DOT. There being no other questions or comments from the Board, petitioner or public, Bargnesi made a motion to waive the site view & close the hearing. Bordonaro seconded the motion & the Board voted (5-0) to waive the site view & close the hearing. Rechisky sat off the remainder of the case. The Board then proceeded to deliberate.

The Board feels that the proposed redevelopment of the site is in keeping with the Town's Master Plan and would be a nice addition to town. There was some discussion of party walls, which would be handled by the Building Inspector under the Building Code. The Board voiced concern over traffic congestion, but acknowledged that the current request is for a variance for the setbacks and that the conceptual redevelopment will be reviewed, including traffic, by the Planning Board and MASS DOT. Bargnesi made a motion to grant the variance from 4.1.2 for the side/rear setbacks with

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the finding of hardship as set forth in the petition. Oltman seconded the motion & the Board voted (5-0) to grant the variance. Bargnesi will write the decision.

Petition No.: Z-14-106

Premises affected: 290 Lowell Street

Petitioner: O'Brien Homes

Relief requested: Variances 4.1.2, 7.9.4.2, 7.9.4.3.b & Special Permit 7.9 &/or 3.3.5 to subdivide a lot with an historic

home into 2, both lots will be undersized & the historic home does not meet the minimum front setback

Board: Brown (Chair); McDonough (Acting Clerk); Oltman, Bordonaro. Alternates: None

Brown informed the applicant & his attorney, Mark Johnson, that only four Board members who sat on the case in September were present for the continued public hearing tonight. The applicant chose not to proceed with a 4-member Board. Johnson requested that the hearing be continued to 11/6/14 adding that he will submit an extension for the Board to file the written decision. McDonough made a motion to continue the public hearing got 11/6/14. Bargnesi seconded the motion & the Board voted unanimously (6-0) to continue the hearing to 11/6/14. Bordonaro noted that she will not be present on 11/6/14. Johnson requested that the board start the continued hearing at 6:30 pm. There was a question from the public regarding a site view and site control. Brown announced that written permission from the property owner to proceed with the public hearing had been received by the Board.

Petition No.: Z-14-137

Premises affected: 166 Salem Street

Petitioner: PWI

Relief requested: modify decision #2739 &/or variances 3.1.3.C.22, 3.3.2, 5.2.5 for continue existence of fuel station and variance 3.1.3.C.6 for retail establishment

Board: Brown (Chair); McDonough (Acting Clerk); Bargnesi (Member); Bordonaro (for Magenheim) & Rechisky (for

Boness). Alternate: Oltman,.

Attorney Peter Caruso, with an office on Main St., Andover, represented the applicant's request to modify Decision #2739 (to remove the condition of ownership) and for variances from 3.1.3.C.22, 3.3.2 to continue the non-conforming use as a gasoline filling station; for a variance from 3.1.3.C.6 to operate a convenience store & for a variance from 5.2.5 for the sign. Caruso explained that the gas station has been in operation since the 1930's (as allowed by Decision No. 61) and is therefore an established, pre-existing, non-conforming use. They have spoken with the direct abutter & agreed to install a privacy fence. Caruso submitted a site & parking plan this evening depicting 11 parking spaces. The convenience store will be located in the existing bays. Brown asked for a summary of what was granted in Decision 2739: the continuance of the existing gas station in a residential district with the following conditions - ownership is restricted to the applicant, a maximum of 10 cars a tow truck on site, hours of operation 7 am – 10 pm. Caruso noted that the proposed hours are 6 am – 9 pm & one additional parking space will be created. The Board discussed ownership history & proposed modifications for the conversion to a convenience store. Bordonaro pointed out the condition of the lease requiring James Zaragis with 51% ownership. Caruso stated that Getty owns the station now. It was uncertain at the hearing what percentage of the building would be used for the convenience store. The existing building will not be torn down. The Board discussed the lighting plan & its impact on the neighborhood. Caruso has spoken with the immediate abutter, who is in agreement with the proposed lighting. The Board questioned whether or not the change in use would meet the off-street parking requirement & setbacks. Brown noted the lack of detail on the submitted plan; no designation of sign, entryways or pump locations, or lot egress, making it unable to render a determination. Caruso reviewed the requested relief, emphasizing that the use pre-dates the zoning bylaw and was the subject of 8 zba approvals dating from the 1940's. The requested modification of Decision 2739 is triggered by the

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change of ownership. Caruso noted that the topography of the lot does not lend itself to residential use. Glen Ota, direct abutter at 160 Salem St., stated no objection. He informed the Board of a tentative agreement with the potential owner for sight & sound barriers, including a fence. The agreement includes lighting. Rechisky suggested that the proposed buffers should be depicted on the plan. Brown inquired when the gas station was last in operation. Caruso stated it was in operation 1.5 years ago. Caruso will provide documentation to the Board. Brown asked for documentation on when the property was last used, a detailed plot plan of the proposed use / changes including parking, buffer setbacks & lighting plan. There being no other questions or comments from the Board or the public, McDonough made a motion to continue the public hearing to 11/6/14. Bargnesi seconded the motion & the Board voted (6-0) to continue to 11/6/14. Brown designated Rechisky to sit in place of Boness and Bordonaro to sit in place of Magenheim.

Approval of Minutes

9/4/14 – McDonough made a motion to approve the minutes of 9/4/14 as revised by Brown. Bargnesi seconded the motion & the Board voted (6-0) to approve the minutes.

8/26/14 – McDonough made a motion to approve the minutes of 8/26/14 as revised by Brown. Bargnesi seconded the motion & the Board voted (6-0) to approve the minutes.

8/7/14 – Bargnesi made a motion to approve the minutes of 8/7/14 as revised by Brown. Rechisky seconded the motion & the Board voted (6-0) to approve the minutes.

There being no other business of the Board, McDonough made a motion to adjourn the meeting. Bargnesi seconded the motion & the Board voted unanimously to adjourn the meeting at 8:45 p.m.